Maharashtra Regional and Town Planning Act, 1966 -

Direction u/s 37 thereof - applicability of concepts of TDR and accommodating reservation in the -

GOVERNMENT OF MAHARASHTRA
Urban Development Department
Memorandum No.DCR 1094/529/CR-102/94/UD-11
Mantralaya, Bombay-400 032.

Dated the 20th April 1994.

MEMORANDUM

Till recent times, lands reserved for public amenities, social facilities and utilities in the Development Plans prepared under the provisions of Maharashtra Regional and Town Planning Act, 1966 were being generally acquired under section 126 of the Maharashtra Regional and Town Planning Act read with relevant provisions of Land Acquisition Act, 1894. It is experienced that with rising land values, especially in Metropolitan and large cities, it has not been possible for the local planning authorities i.e. Municipal Corporations Councils to keep the pace of implementing Development Plans at desired level, with the result that the implementation has lagged far behind. The State Government has recently formulated the concepts of 'transfer of development rights' introduced it intially in the D.C.Regulations for Greater Bombay, 1991. Section 126 of Maharashtra Regional and Town Planning Act, 1966 too has been amended for enabling compulsory acquisition of lands

reserved for public amenities, social amenities, utilities by granting 'transfer development rights'. These concepts, are reported to be working very well in Greater Bombay. The State Government, therefore, desires that the same should be made applicable to all the cities administered by Municipal Corporations and cities beyond population of 2.00 lakhs as per 1991 Census administered by Municipal Councils.

The State Government is, therefore, pleased to issue the following direction under sub-section (1) of section 37 of the Maharashtra Regional and Town Planning Act, 1966.

DIRECTION

1) "All the Municipal Corporations from the State, excepting Greater Bombay, Municipal Corporation and New Bombay Municipal Corporation and those who have already initiated action in this behalf, [& Municipal Councils having population more than 2.00 lakhs as per 1991 Census] shall initiate proposal of minor modification under section 37 of the Maharashtra Regional and Town Planning Act, 1966 to introduce in their relevant D.C.Regulations these concepts of " transfer of development rights."

The relevant extract of D.C.Regulations for Greater Bombay pertaining to this concepts are enclosed as annexure 'A' for the guidence'.

By order and in the name of Governor of Maharashtra,

To;

All Municipal Commissioners in Maharashtra State

The Chairman, Nagpur Improvement Trust,
Nagpur.

The Managing Director,
City & Industrial Development Corporation
of Maharashtra State, Nirmal Bhawan, Nariman Point,
Bombay-21.

The Director of Town Planning, Pune,

All Deputy Directors of Town Planning.

All 'A' Class Municipal Councils in Maharashtra State,

34. **Transfer of Development Rigths.-** In certain circumstances, the development potential of a plot of land may be separated from the land itself and may be made available to the owner of the land in the form of Transferable Development Rights (TDR). These Rights may be made available and be subject to the Regulations in Appendix VII hereto.

APPENDIX - VII

(Regulation 34)

Regulations for the grant of Transferable Development Rights (TDRs) to owners/developers and conditions for grant of such Rights :

1. The owner (or lessee) of a plot of land which is reserved for a public purpose in the development plan and for additional amenities deemed to be reservations provided in accordance with these Regulations, excepting in the case of an existing or retention user or any required compulsory or recreational open space, shall be eligible for the award of Transferable Develop-ment Rights (TDRs) in the form of Floor Space Index (FSI) to the extent and on the conditions set out below. Such award will entitle the owner of the land to FSI in the form of a Development Rights Certificate (DRC) which he may use himself or transfer to any other person.

2. Subject to the Regulation I above, where a plot of land is reserved for any purpose specified in section 22 of Maharashtra Regional and Town Planning Act, 1966, the owner will be eligible for Development Rights (DRs) to the extent stipulated in Regulations 5 and 6 in this Appendix had the land been not so reserved, after the said land is surrendered free of cost as stipulated in Regulation 5 in this Appendix, and after completion of the development or construction as in Regulation in this Appendix if he undertakes the same.

3. Development Rights (DRs) will beg granted to an owner or a lessee only for reserved lands which are retainable / non-retainable under the Urban Land (Ceiling and Regulations) Act, 1976, and in respect of all other reserved lands to which the provisions of the aforesaid Act do not apply, and on production of a certificate to this effect from the Competent Authority under that Act before a Development Right is granted. In the case of non-retainable lands, the grant of Development Rights shall be to such extent and subject to such conditions as Government may specify. Development Rights (DRs) are available only in cases where development of a reservation has not been implemented i.e. TDRs will be available, only for proppective development of reservations.

4. Development Rights Certificates (DRCs) will be issued by the Commissioner himself. They will state, in figures and in words, the FSI credit in square meters of the the built-up area to which the owner or lessees of the said reserved plot is entitled, the place and user zone in which the DRs are earned and the areas in which such credit may, be utilised.

5. The built-up area for the purpose of FSI credit in the form of a DRC shall be equal to the gross area of the reserved plot to be surrendered and will proportionately increase or decrease according to the permissible FSI of the zone where from the TDR has originated.

6. When an owner or lessee also develops or constructs the amenity on the surrendered plot at his cost subject to such stipulations as may be prescribed by the Commissioner or the appropriate authority, as the case may be and to their satisfaction and hands over the said developed/constructed amenity to the Commissioner/appropriate authority, free of cost, he may be granted by the Commissioner a further DR in the form of FSI equivalent to the area of the construction/development done by him, utilisation of which etc. will be subject to the Regulations contained in this Appendix.

7. A DRC will be issued only on the satisfactory compliance with the conditions prescribed in this Appendix.

8- If a holder of a DRC intends to transfer it to any other person, he will submit the DRC to the Commissioner with an appropriate application for an endorsement of the new holder's name, i.e. tranferree on the said Certificate. Without such an endorsement by the Commissioner himself, the transfer shall not be valid and the certificate will be available for use only by the earlier original holder.

9. A holder of a DRC who desires to use the FSI credit certified therein on a particular plot of land shall attach to his application for development permission valid DRCs to the extent required.

10. Irrespective of the location of the land in which they originate, DRCs shall not be used in the Island City. They may be used --

(a) on any plot in the same ward as that in which they originated DRSxxxXxxixxxkxbmxxmxxdxx xmx (neither ward being in the Island city), or

(b) on any plot lying to the north (wholly or partially) of the plot in which they have originated (but not in the Island city).

11. A DRC shall not be valid for use on receivable plots in the areas listed below :-

(a) Between the tracks of the Western Railway and Swami Vivekananad Road ;

(b) Between the tracks of the Western Railway and the Western Express Highway ;

(c) Between the tracks of the Central Railway (Main Line) and the Lal Bahadur Shastri Road;

(d) On plots falling within 50 m. on roads on which no new shops are permitted as specified in sub-regulation (2) of Regulation 52.

(e) Coastal areas and areas in No Development Zones, Tourism Development Zones, and areas for which the Bombay Metropolitan Region Development Authority or Maharashtra Housing & Area Development Authority is the Special Planning Authority;

(f) On plots for housing schemes of slum dwellers for which additional FSI is permissible under sub-regulation (10) of Regulation 33 ;

(g) Areas where the permissible FSI is less than 1.0.

12. The user that will be permitted for utilisation of the DRCs on account of transfer of development rights will be as under :-

Zone in which designated reserved plot is situated		User to be permitted in receiving areas
(1) Residential	..	Only residential users and in Residential Zones only.
(2) Commercial (C-2)	..	Commercial (C-2) users if the plot where the FSI is to be utilised is situated in C-2 Zone. Commercial (C-1) if the plot where the FSI is to be utilised is situated in C-1 Zone. Residential only in Residential Zones.
(3) Commercial (C-1)	..	Commercial (C-1) if the plot where the FSI is to be utilised is situated in C-1 Zone. Residential in Residential Zones.
(4) Industrial (I-1), (I-2), (I-3)	..	Residential only in Residential Zones.

13. DRCs may be used on one or more plots of land whether vacant or already developed or by the erection of additional storeys, or in any other manner consistent with these Regulations, but not so as to exceed in any plot a total built-up FSI higher than that prescribed in Regulation 14 in this Appendix.

14. The FSI of a receiving plot shall be allowed to be exceeded by not more than 0.4 in respect of a DR available in respect of the reserved plot as in this Appendix and upto a further 0.4 in respect of a DR available in respect of land surrendered for road-widening of construction of new roads according to sub-regulation (1) of Regulation 33.

15. DRs will be granted and DRCs issued only after the reserved land is surrendered to the Corporation, where it is Appropriate Authority, otherwise to the State Government as the case may be, free of cost and free of encumbrances, after the owner or lessee has levelled the land to the surrounding ground level and after he has constructed a 1.5 m. high compound wall (or at a height stipulated by the Commissioner) with a gate at the cost of the owner, and to the satisfaction of the Commissioner, or the State Government (where the Corporation is not the appropriate [illegible]. [illegible]

authority). The cost of any transaction involved shall be borne by the owner or lessee.

16. With an application for development permission, where an owner seeks utilisation of DRs, he shall submit the DRC to the Commissioner who shall endorse thereon in writing in figures and words, the quantum of the DRC proposed to be utilised, before granting development permission, and when the development is complete, the Commissioner shall endorse on the DRC in writing, in figures and words, the quantum of DRs actually utilised and the balance remaining thereafter, if any before issue of occupation certificate.

17. A DRC shall be issued by the Commisioner himself as a certificate printed on bond paper in appropirate form prescribed by Commissioner. Such a certificate will be a transferable "negotiable instrument" after due authentication by the Commissioner. The Commissioner shall maintain a register in a form considered appropriate by him of all transactions, etc. relating to grant of utilisation of Drs.

18. The surrendered reserved land for which a DRC is to be issued shall vest in the Corporation or the State Government, if the appropriate authority is other than the Corporation, and such land shall be transferred in the City Survey Records in the name of the Corporation or the State Government, as the case may be, and shall vest absolutely in t e Corporation or the State Government. The surrendered land, so transferred to the State Government in respect of which the Corporation is not the appropriate authority, may, on application, thereafter be allotted by the State Government is favour of the concerned authority, which may be a State or Central Government Department, Authority or organisation, or an other public authority or organisation on appropriate terms as may be decided by the State Government.

19. The Commissioner / appropriate authority shall draw up in advance and make public from time to time a phased annual programme (allowing a 10 per cent variation to deal with emergency development) for utilisation of TDRs

in the form of DRs, prioritising revised (draft or sanctioned) development plan reservatons to be allowed to be surrendered and indicating the areas for their utilisation on receiving plots. Notwithstanding this, in urgent cases the Commissioner / appropriate authority, may for reasons to be recorded in writing, grant DRs, as and when considered appropriate and necessary.